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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/725,466	11/30/2000	Brian Charles Pike	BDL.24	9440

466 7590 05/27/2003

YOUNG & THOMPSON
745 SOUTH 23RD STREET 2ND FLOOR
ARLINGTON, VA 22202

EXAMINER

TAWFIK, SAMEH

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 05/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K.

Office Action Summary

Applicati n N .

09/725,466

Applicant(s)

PIKE, BRIAN CHARLES

Examiner

Sameh H. Tawfik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Langen et al. (4,936,077) in view of Ostholt et al. (5,339,944).

Langen discloses a carton filling device comprising a conveyor (20) for moving cartons and objects to be located in the cartons simultaneously down a track with the objects respectively facing opposite to open ends of the cartons located at one side of the conveyor, see for example (Figs. 1 and 2); pushers (via pushing arm 62) for engaging the objects and pushing them towards and into the open ends of the cartons, see for example (Fig. 1); a single control arm carrying at least two pushers (Fig. 2; via 68 in pusher arm 62); a control mechanism adapted to move the control arm in one direction not only across the conveyor (Figs. 1 and 2; via conveyor 44 and guide track 50); the pushers (68) carried on the control arm (62) are moved across the conveyor in a diagonal direction (Fig. 2; via line 78 to guide the pushers in a diagonal direction). Langen does not disclose that return the pushers back to the start position once the objects have been inserted into the carton nor using a single control arm. However, Ostholt disclose a similar filling device with returning the pushers (via 3 in a single control arm 19) back to the start position once the objects have been inserted into the carton (column 4, lines 24-29).

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Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted Langen's pushing stations 14 and 16 by having Ostholt's control arm 19 and pusher 3, in order to reliably and controllably displace articles moving on the conveyance path onto an adjoining or associated discharge path (column 1, lines 65-68).

Regarding claim 2: Langen disclose the pusher arm 62) carries two pushers (Fig. 2, pushers 68) for engaging respective objects.

Regarding claim 4: Langen discloses that a support body situated beside the conveyor supports the control mechanism which controls the movement of the control arm (Figs. 1 and 2; via guide rails 46 and 71).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 above, and further in view of Farrelly (5,611,193).

Langen nor Ostholt disclose that the control mechanism is designed to cause the pusher arm to be raised for the return journey back to the start position. However, Farrelly discloses similar filling apparatus including a single control arm (Fig. 1; via arm 42) carrying at least two pushers (via 47) and to cause the pusher arm to be raised for the return back to the start position (Fig. 1; via arrow 44).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Langen's apparatus in view of Ostholt by having the control mechanism is designed to cause the pusher arm to be raised for the return journey back to the start position, as suggested by Farrelly, in order to provide a simple and inexpensive loading

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arrangement wherein articles can be transferred between a container, on a container conveyor and a transfer station on an article conveyor (column 1, lines 60-65).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is (703) 308-2809. The examiner can normally be reached on Monday - Friday from 8:00 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rada, Rinaldi can be reached on (703) 308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-7769 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

ST.
May 20, 2003


EUGENE KIM
PRIMARY EXAMINER